

RemarksRejection of the claims under 35 USC § 112:

Claims 1-15, and 17 have been rejected under 35 U.S.C. 112, first paragraph, for adding new matter.

The claims have been amended to replace the term "expression of longer than seven days" with the term "after seven days defined by at least 20% more gene product than is expressed from a supercoiled plasmid from which the linearized plasmid is derived" as found on page 15, lines 14-16 and described in Example 5 of the Specification.

Example 5 provides results from expression sampling over a period of 62 days. The first sample was tested on day 1 and shows virtually equivalent levels of expression. The subsequent samplings beginning at day 7 clearly show increased expression provided by the linearized plasmids when compared to supercoiled plasmids containing the same sequence.

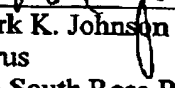
The second paragraph on page 4 of the Action indicates that the claims encompass linear DNA from any source which is not supported in the Specification. Applicants have amended claim 1 to provide the source of the linearized plasmid.

At the bottom of page 4 and continued to page 5, the Action states that there is no structural requirement of the promoter set forth in the claim that requires it to be active in the liver. Although Applicants used a CMV promoter, which is active in any human cell type, it is well known in the art that a scientist could use any promoter that provides expression in hepatocytes.

Applicants believe that the amendment obviates the rejection.

The Examiner's rejections are now believed to be overcome by this response to the Office Action. In view of Applicants' amendment and arguments, it is submitted that claims 1-15 and 17 should be allowable.

Respectfully submitted,

  
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